

Application No.: 10/581,810
Filing Date: March 12, 2007

REMARKS

Claims 9, 15-18 and 22 are presently pending. No new matter has been added herewith. The following addresses the substance of the Office Action.

Written Description

The Patent Office maintained a rejection of Claims 9 and 15-18 under 35 U.S.C. § 112, first paragraph, as failing to comply with the Written Description requirement. In particular, the Examiner maintained his objection of the expression “chemically or enzymatically modified sequences of SEQ ID NO 10 conserving their antigenic characteristics,” stating that the disclosure fails to describe the common attributes or characteristics that identify members of the genus.

Without acquiescing and solely to expedite prosecution of the present application, Applicants have amended Claim 9 by deleting the expression “chemically or enzymatically modified sequences of SEQ ID NO 10 conserving their antigenic characteristics” from the claims. Accordingly, the Applicants respectfully request that the rejection under 35 U.S.C. § 1121, first paragraph be withdrawn.

Anticipation

Claims 9, 15-18 and 21 were rejected under 35 U.S.C. § 102(b) as being anticipated by EP1033405. EP1033405 describes proteolytic fragments of *Arabidopsis thaliana* and compositions. In particular, EP1033405 discloses a sequence that contains the amino acid sequence “G-D-T-Q-V” (i.e., amino acids 48-52 of SEQ ID NO: 24,275), which is identical to amino acids 71-75 of SEQ ID NO 10 in the present application.

Applicants have amended Claim 9 to specifically recite an isolated polypeptide selected from antigenic protein NcSAG4 of *N. caninum*, comprising SEQ ID NO: 10 or a recombinant protein comprising SEQ ID NO: 10. To be anticipatory under 35 U.S.C. § 102, a reference must teach each and every element of the claimed invention. *See Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1379 (Fed.Cir. 1986). “[A]nticipation requires that all of the elements and limitations of the claim are found within a single prior art reference.” *See Scripps Clinic & Research Foundation v. Genentech, Inc.*, 927 F.2d 1565 (Fed. Cir. 1991). SEQ ID NO: 24,275 of EP1033405 does not comprise SEQ ID NO: 10 of the present application.

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Accordingly, the claimed subject matter of Claim 9 and dependent Claims 15-18 is not anticipated by the reference.

Claim 22 was objected to as being dependent upon a rejected base claim, but the Examiner stated that it would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 22 is amended to be written in independent form, including the limitations of Claim 21, now canceled.

In view of the amendments to the claims and the foregoing remarks, the Claims are in compliance with the requirements of 35 U.S.C. § 102(b). As such, the Applicants respectfully request that the rejection be withdrawn.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

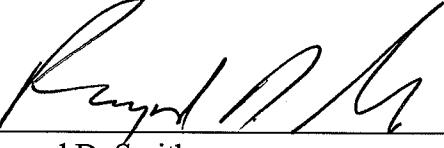
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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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